

1  
2  
3  
4  
5           UNITED STATES DISTRICT COURT  
6           WESTERN DISTRICT OF WASHINGTON  
7           AT TACOMA

8 STEVEN DARBY McDONALD,

9           Plaintiff,

10 v.

11 JOHN DAVID KENNEY,

12           Defendant.

13           CASE NO. C13-5647 BHS

14           ORDER ADOPTING REPORT  
15           AND RECOMMENDATION

16         This matter comes before the Court on the Report and Recommendation (“R&R”)  
17         of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 19), and  
18         Plaintiff Steven Darby McDonald’s (“McDonald”) objections to the R&R (Dkt. 21).

19         On November 18, 2013, Judge Strombom issued the R&R recommending that the  
20         Court dismiss McDonald’s complaint without prejudice because McDonald failed to cure  
21         significant deficiencies in his complaint. Dkt. 19. Judge Strombom informed McDonald  
22         of these deficiencies and allowed him an opportunity to cure the deficiencies, but  
23         McDonald responded that he was unable to comprehend Judge Strombom’s order and  
24         requested a competency hearing. Dkts. 16–18. On November 29, 2013, McDonald filed

1 || objections reiterating his inability to pursue this litigation based on his incompetency.

2 | Dkt. 21.

3       Based on McDonald’s submissions, the Court finds that McDonald is able to draft  
4 a short and plain statement of his claims. He has failed to do so on multiple occasions  
5 and stands by his request for a competency hearing before complying. Without a  
6 coherent claim that establishes the jurisdiction of this Court, the Court declines to  
7 consider the issue of a competency hearing. Moreover, the Court agrees with Judge  
8 Strombom that the complaint should be dismissed without prejudice for failure to provide  
9 a short and plain statement of any cognizable claim. Therefore, the Court having  
10 considered the R&R, McDonald’s objections, and the remaining record, does hereby find  
11 and order as follows:

(1) The R&R is **ADOPTED**;

(2) McDonald's complaint is **DISMISSED** without prejudice; and

(3) The Clerk shall close this case.

Dated this 16th day of January, 2014.

  
BENJAMIN H. SETTLE  
United States District Judge